



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

MT WASHINGTON VALLEY EDUCATION  
ASSOCIATION/NEA-NEW HAMPSHIRE

Petitioner

v.

SCHOOL ADMINISTRATIVE UNIT #9

Respondent

CASE NO. T-0358:1

DECISION NO. 89-78

Representing Mt. Washington Valley Education Association/NEA-NH:

Waldo B. Cumings, Director Region I, NEA-NH

Representing School Administrative Unit #9:

Jay C. Boynton, Esq., Counsel

Also appearing:

Dr. William A. Jutras, Supt.

Richard B. Mezquita, Asst. Supt.

Janet Perley, S.A.U. #9

Robin Fall, M.W.V.E.A.

Ted Comstock, N.H.S.B.A.

#### BACKGROUND

On March 31, 1989 the White Mountain Education Association/NEA-NH (Association) petitioned PELRB for modification of the existing, certified bargaining unit to include four (4) secretarial positions and two (2) financial assistant positions on the basis that these positions share a community of interest with other bargaining unit employees and have a common employer and have no other statutory access to organize as a certified unit. On April 12, 1989 Richard B. Mezquita, Assistant Superintendent of Schools filed with PELRB a letter objecting to the modification petition stating, "It is our reply that there is not a true community of interest and, therefore, the unit should not be modified as requested."

Hearing in this matter was held at the PELRB office on June 6, 1989 in Concord, New Hampshire.

W.B. Cumings for the Association in opening statements requested inclusion of four (4) secretaries and two (2) financial assistants based on the fact that the positions meet the community of interest tests and that the existing unit have non-professional as members. Jay Boynton, Esq., for S.A.U. #9 in opening stated that the positions in question do not share a community of interest are paid from the same source, however, they are on hourly basis, employed in different schools, funding is different. Present bargaining unit members are all contract employees and terminations are different from teachers who are covered by RSA 189.

Witness Richard Mezquita, Assistant Superintendent of Schools testified regarding the Madison School District bargaining unit and its composition as being (wall to wall), the Personnel Policy Manual (District #3) and its application to all non-bargaining unit members, the confidential nature of one of the secretarial positions and the funding process for various programs.

Witness Robin Fall a Chapter I teacher, member of the existing bargaining unit testified regarding the policy manual, fringe benefits, meeting participation of secretaries and financial position occupants and desire of occupants to be included, however, no final vote has been taken of the group requesting inclusion in the bargaining unit.

Witness Janet Perley testified for the financial group and their frequent contact with bargaining unit members and students and attendance at certain meetings and her specific duties as a financial assistant.

Superintendent of Schools Dr. Jutras presented testimony regarding the several agreements in S.A.U. #9, in the separate school districts, changes in the relationship between the school districts and the S.A.U. #9.

Witness Comstock offered testimony regarding various contracts monitored by the N.H. School Board Association.

#### FINDINGS OF FACT

After considering all the written documents and oral testimony, PELRB makes the following findings and offer as response to the parties requests for findings:

1. Certification of the existing bargaining unit was issued on September 12, 1984. The unit to be composed of "speech/language therapists, nurse/teachers, teachers, title I teachers and teaching associates." This recognition clause was negotiated by the parties in 1983.
2. Secretaries and financial consultants were specifically excluded from the unit.
3. RSA 273-A:8 II deals specifically with professional and non-professional bargaining units and the procedure to be followed in obtaining bargaining unit membership.
4. The negotiated recognition clause in the existing contract is designed to include only those professional enumerated and to exclude all others.
5. The source of funds in paying the petitioned positions is a factor not given consideration in this case.
6. Present bargaining unit members are professionally recognized by a proper certification authority and must hold appropriate credentials, whereas, the petitioned positions do not.
7. The community of interest factor is a part of consideration of unit membership, however, such interest was not persuasive in the testimony of witnesses and the written job description.

8. There are many differences in the requirements of membership in the existing bargaining unit and the petitioned position, i.e., hourly pay vs. contract pay, difference in 185 teaching day vs. 365 days, working hours and time per year, lack of demonstrated community of interest and different supervising structure.
9. The matter of whether the petitioned positions should be in or out of the unit should be the subject of negotiations between the parties and the petitioned positions.

ORDER OF THE BOARD

The petition to modify the Mount Washington Valley Education Association/NEA-New Hampshire bargaining unit is hereby DENIED.

Signed this 9th day of November, 1989.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman and Richard E. Molan, Esq., present and voting.